

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION

UNITED STATES OF AMERICA

Plaintiff,

v.

ELISA ANNETTE BAKER,

Defendant.

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Case no.: 5:11-cr-00029-001

**MOTION FOR SENTENCE REDUCTION PURSUANT TO
18 U.S.C. § 3582 AND SENTENCING GUIDELINES AMENDMENT 782**

Defendant Elisa Annette Baker (“Baker”), through her attorney, Caleb H. Newman, moves, pursuant to 18 U.S.C. § 3582, Sentencing Guidelines §1B1.10 and Amendment 782, for a reduction of the 120-month sentence this Court imposed on March 4, 2013. For the reasons stated below, Baker asks that the Court reduce her sentence to 87 months’ imprisonment. In support of this motion she shows as follows:

1. On January 5, 2012, Baker was convicted of Conspiracy to Distribute and to Possess with Intent to Distribute Oxycodone, Hydrocodone, and Alprazolam (21 U.S.C. §§ 841(b)(1)(C), (b)(1)(E)(2), and 846). The Presentence Investigation Report determined that the Base Offense Level was 32, based on Baker being responsible for a drug equivalency of 1217.8125 kilograms of marijuana. The Total Offense Level was 29. Combined with a Criminal History Category of III, this produced a Guidelines imprisonment range of 108 to 135 months. The Court imposed a sentence of 120 months’ imprisonment to run consecutive to the sentence Baker is currently serving in the North Carolina Department of Adult

Corrections. Baker is projected to be released from North Carolina's custody on July 2, 2025, at which point she will begin serving her federal sentence.

2. Baker is eligible for a reduction of her sentence by retroactive application of Sentencing Guidelines Amendment 782 to drug offenses pursuant to § 3582(c) and policy statement §1B1.10.¹ As amended, Baker's Guidelines range drops to 87 to 108 months, based on a Total Offense Level of 27 and Criminal History Category of III.

3. Baker respectfully requests the Court reduce the sentence originally imposed to 87 months' imprisonment to reflect the application of Amendment 782.

4. Section 3582(c)(2) authorizes the district court to re-calculate Baker's sentencing range under the amendment, and determine an appropriate sentence in accordance with the applicable § 3553(a) factors. The policy statement §1B1.10 provides that courts have discretion in determining whether, and to what extent, to reduce the sentence for any person eligible to be considered for retroactive application of an amended Guidelines range.

WHEREFORE, as Baker qualifies for a sentence reduction as of November 1, 2014, it is respectfully requested that the Court enter an amended Judgment reducing Elisa Annette Baker's sentence to 87 months' imprisonment.

Respectfully submitted,

/s/Caleb H. Newman

Caleb H. Newman

Staff Attorney

Federal Defenders of Western North Carolina, Inc.

¹ The drug Guidelines at §§2D1.1 and 2D1.11 were amended effective November 1, 2014. See Amendment 782. The Sentencing Commission has determined these amended guidelines are retroactive for purposes of the policy statement §1B1.10.

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CERTIFICATE OF SERVICE

I hereby certify that on April 29, 2015, the foregoing was filed electronically with the Clerk of the Court to be served by operation of the Court's electronic filing system upon Assistant United States Attorney Amy Ray.

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